

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)	
)	Case No: 2:17-cr-00117-NT
v.)	
)	
MST MINERALIEN SCHIFFFAHRT)	
SPEDITION UND TRANSPORT)	
GMBH, et al.,)	

**GOVERNMENT’S RESPONSE TO DEFENDANTS’ MOTION TO QUASH
GOVERNMENT’S APPLICATION FOR GROUND RULES, AND
MOTION TO COMPEL COMPLETE DISCLOSURES**

Now comes the United States of America, by its undersigned attorneys and respectfully submits this response motion to Defendants’ Motion to Quash Government’s Application for Ground Rules and Motion to Compel Complete Disclosures.

On August 24, 2017, the Hon. Magistrate Judge John H. Rich III ordered that depositions of four material witnesses be taken within 30 days, by September 22, 2017. Defendants’ counsel is only available to conduct these depositions from September 4 to September 15, 2017. Based on counsel’s schedule and the availability of court certified interpreters, the government scheduled the depositions from September 11 to 13, 2017, in the Federal Courthouse in Portland, Maine.

The Government immediately began making arrangements for the necessary interpreters, and confirmed the final Slovakian interpreter on August 30. The Government also secured Courtroom Number 3 in the Federal Courthouse and retained a videographer and court reporter for the September 11 to 13 schedule. On August 30, the Government advised Defendants’ counsel and counsel for the material witnesses of the deposition schedule.

The Government concluded reviewing files for production to Defendants' Counsel on August 30, and delivered the first production to Defendants' Counsel on September 2. Except for 56 pages of U.S. Coast Guard reports, the discovery items were all materials previously in the Defendants' possession. A small second, and final, production is being compiled by the Government with anticipated production by the end of the day on September 7th, if not sooner. The Government is aware of its continuing discovery obligations during the pendency of the case and if it receives new or additional information, will produce any such discovery as required.

The Court previously suggested that depositions in this matter should last only two days. Defendants' Counsel has demanded that the depositions last no longer than two days. The Government submitted a proposed schedule to accomplish this goal, but was unable to obtain Defendants' Counsel's concurrence. The Government was similarly unable to secure a concurrence from Counsel to avoid speaking objections, limit the scope of witness testimony to matters relating to the indictment, proceed in a fashion similar to trial, and provide each side with proposed exhibits. Thus, the Government submitted its Motion for Ground Rules in an attempt to streamline the deposition process, focus the scope of the depositions, and set reasonable expectations about the process.

Absent some set of ground rules that hone the depositions, the Government has justified concerns that they will not be concluded in two days.¹ Considering the need to move forward expeditiously, the Government respectfully requests that the Court grant its Motion for Ground

¹ The Government scheduled a third day of depositions over the objection of Counsel for the Defendants.' The Government scheduled this day in an abundance of caution. Should we need the extra day, it will be necessary to have previously scheduled the videographer, court reporter, and interpreters.

Rules.² The Government further respectfully requests that the Court deny the Defendant's Motion to Compel Complete Disclosures as unnecessary for the reasons described above.

CONCLUSION

WHEREFORE, for the foregoing reasons, the government respectfully requests this Honorable Court deny the Defendants' Motions and Grant the Government's Motion to Establish Ground Rules for the depositions as reflected in the Proposed Order.

Date: September 6, 2017

RICHARD MURPHY
ACTING UNITED STATES ATTORNEY

JEFFREY H. WOOD
ACTING ASSISTANT ATTORNEY GENERAL
United States Department of Justice
Environment and Natural Resources Division

Date: September 6, 2017

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² In a similar case, the U.S. District Court for the Southern District of Texas previously issued an order that set some conditions similar to those sought by the Government. See Order for Motion on Return of Travel Documents, 4:09-cr-00492, Dkt. 29, attached as Exh 1.

CERTIFICATE OF SERVICE

I hereby certify that I have this electronically filed the foregoing Motion for Order Establishing Deposition Ground Rules with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

George Michael Chalos
Chalos & Co, P.C.
Email: gmc@chaloslaw.com

Date: September 6, 2017

/s/ Shane N. Waller
Shane N. Waller
Environmental Crimes Section
United States Dept. of Justice